

## **REMARKS**

After entry of this Amendment, the pending claims are: claims 9-16, 21, 23-26 and 29-31. The Office Action dated July 26, 2007 has been carefully considered. Claims 1-8, 17-20, 22, 27 and 28 are hereby canceled without prejudice. The Applicant hereby explicitly reserves the right to file continuation and/or divisional applications to protect these inventions. Claims 9-11 and 21 have been amended. No new matter has been added. Reconsideration and allowance of the present application in view of the above Amendments and the following Remarks is respectfully requested.

In the Office Action dated July 26, 2007, the Examiner:

- rejected claims 1-5, 7 and 8 under 35 U.S.C. § 102(b) as being anticipated by Michelson (U.S. Patent No. 6,193,721) (“Michelson”); and
- rejected claims 9-16 and 21-31 under 35 U.S.C. § 103(a) as being unpatentable over Wolf et al (U.S. Patent No. 6,238,407) (“Wolf”) in view of Michelson.

### **INDEPENDENT CLAIM 1**

Independent claim 1 has been rejected as being anticipated by Michelson. Independent claim 1 has been canceled. As such, this rejection is believed to be moot. Withdrawal of this rejection is respectfully requested.

### **INDEPENDENT CLAIM 9**

Independent claim 9 has been rejected as being unpatentable over Wolf in view of Michelson. As amended, independent claim 9 requires, *inter alia*, an awl apparatus comprising a shaft; an outer sleeve wherein the outer sleeve surrounds at least a portion of the shaft, the outer sleeve including a plurality of openings to facilitate cleaning and sterilization of the awl; an inner sleeve having a proximal end and a distal end, wherein at least a portion of the inner sleeve is located in between the shaft and the outer sleeve; and a biasing member configured to bias the shaft to an initial position within the outer sleeve, wherein the biasing member surrounds at least a portion of the shaft and is located in between the outer sleeve and the distal end of the inner sleeve.

Applicants respectfully submit that neither Wolf or Michelson, either alone or in combination, disclose, teach or suggest an outer sleeve including a plurality of openings to facilitate cleaning and sterilization of the awl. Moreover, it is respectfully submitted that neither Wolf or Michelson, either alone or in combination, disclose, teach or suggest a biasing member located in between the outer sleeve and the distal end of the inner sleeve.

Contrary to the Examiner's argument that Wolf discloses a spring (44) located in-between the outer sleeve and the distal end of the inner sleeve, it is respectfully submitted that Figure 2 of Wolf clearly shows that the spring is located in-between the outer sleeve and the **proximal** end of the inner sleeve and not "in between the outer sleeve and the **distal** end of the inner sleeve" as required by independent claim 9.

Moreover, contrary to the Examiner's argument that Figure 4 and 5 of Wolf disclose a plurality of openings in the outer sleeve, it is respectfully submitted that there is absolutely no disclosure, teaching or suggestion in Wolf of a plurality of openings formed in the outer sleeve to facilitate cleaning and sterilization of the awl. Rather, Wolf discloses that the apparatus is disassembled for cleaning and sterilization. See column 7, lines 51-53. In addition, Applicant further respectfully disagrees that Figures 4 or 5 disclose openings in the outer sleeve to facilitate cleaning and sterilization of the awl. It is respectfully submitted that the Examiner has failed to specifically point to any such openings formed in the outer sleeve to facilitate cleaning and sterilization of the awl. At best Figures 4 and 5 disclose the insertion of a trigger pin (82) through the outer sleeve as part of the safety shield mechanism (80).

It is also respectfully submitted that Michelson does not overcome the short comings of Wolf. Rather Michelson was cited for the proposition that it would be obvious for one of ordinary skill in the art to incorporate the concept that it would be obvious for one to incorporate a rotatable shaft for aiding in penetrating a bone and an outer sleeve that is sized and configured to releasably engage an anchor hole of a bone plate. Without addressing the merits of this argument, it is respectfully submitted that, for at least the above-identified reasons, neither Wolf or Michelson, either along or in combination, disclose, teach or suggest all of the limitations of independent claim 9. Thus, it is respectfully submitted that independent claim 9 is allowable

over the cited prior art. Withdrawal of this rejection and allowance of independent claim 9 is respectfully requested.

Furthermore, as claims 10-16 all depend from independent claim 9, it is submitted that these claims are equally allowable. Withdrawal of these rejections and allowance of claims 10-16 is also respectfully requested.

## **INDEPENDENT CLAIM 21**

Independent claim 21 has been rejected as being unpatentable over Wolf in view of Michelson. As amended, independent claim 21 requires, *inter alia*, an awl assembly comprising a top outer sleeve including a plurality of openings to facilitate cleaning and sterilization of the awl; a bottom outer sleeve including a plurality of openings to facilitate cleaning and sterilization of the awl; an inner sleeve; an awl shaft; and a spring element, wherein the spring element surrounds at least a portion of the shaft and is located in between the top outer sleeve and the distal end of the inner sleeve.

Applicants respectfully submit that neither Wolf or Michelson, either alone or in combination, disclose, teach or suggest a top outer sleeve including a plurality of openings to facilitate cleaning and sterilization of the awl and a bottom outer sleeve including a plurality of openings to facilitate cleaning and sterilization of the awl. Moreover, it is respectfully submitted that neither Wolf or Michelson, either alone or in combination, disclose, teach or suggest a spring element, wherein the spring element surrounds at least a portion of the shaft and is located in between the top outer sleeve and the distal end of the inner sleeve.

Contrary to the Examiner's argument that Wolf discloses a spring (44) located in-between the top outer sleeve and the distal end of the inner sleeve, it is respectfully submitted that Figure 2 of Wolf clearly shows that the spring is located in-between the outer sleeve and the **proximal** end of the inner sleeve and not "in between the top outer sleeve and the **distal** end of the inner sleeve" as required by independent claim 21.

Moreover, contrary to the Examiner's argument that Figure 4 and 5 of Wolf disclose a plurality of openings to facilitate cleaning and sterilization of the awl and a bottom outer sleeve including a plurality of openings to facilitate cleaning and sterilization of the awl, it is

respectfully submitted that there is absolutely no disclosure, teaching or suggestion in Wolf of a plurality of openings formed in the top and bottom outer sleeves to facilitate cleaning and sterilization of the awl. There is absolutely no disclosure or mention of any openings to facilitate cleaning and sterilization in the Wolf reference. Rather, Wolf discloses that the apparatus is disassembled for cleaning and sterilization. See column 7, lines 51-53. In addition, Applicant further respectfully disagrees that Figures 4 or 5 disclose openings in the outer sleeve to facilitate cleaning and sterilization of the awl. It is respectfully submitted that the Examiner has failed to specifically point to any such openings formed in the outer sleeve to facilitate cleaning and sterilization of the awl. At best Figures 4 and 5 disclose the insertion of a trigger pin (82) through the outer sleeve as part of the safety shield mechanism (80).

It is also respectfully submitted that Michelson does not overcome the short comings of Wolf. Rather Michelson was cited for the proposition that it would be obvious for one of ordinary skill in the art to incorporate the concept that it would be obvious for one to incorporate a rotatable shaft for aiding in penetrating a bone and an outer sleeve that is sized and configured to releasably engage an anchor hole of a bone plate. Without addressing the merits of this argument, it is respectfully submitted that, for at least the above-identified reasons, neither Wolf or Michelson, either along or in combination, disclose, teach or suggest all of the limitations of independent claim 21. Thus, it is respectfully submitted that independent claim 21 is allowable over the cited prior art. Withdrawal of this rejection and allowance of independent claim 21 is respectfully requested.

Furthermore, as claims 23-26 and 29-31 all depend from independent claim 21, it is submitted that these claims are equally allowable. Withdrawal of these rejections and allowance of claims 23-26 and 29-31 is also respectfully requested.

### **CONCLUSION**

No fee is believed due in connection with the filing of this response. The Commissioner is authorized to charge any other fee which may now or hereafter be due in this application to Deposit Account No. 19-4709.

In the event that there are any questions, or should additional information be required, please contact Applicants' attorney at the number listed below.

Respectfully submitted,

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/Giuseppe Molaro/

Giuseppe Molaro

Registration No. 52,039

For: Brian M. Rothery

Registration No. 35,340

Attorney for Applicants

Stroock & Stroock & Lavan LLP

180 Maiden Lane

New York, New York 10038

(212) 806-6114